

Chapter 8

AUTOMOTIVE DEALERS AND AUTO WRECKERS*

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ARTICLE I. IN GENERAL

Sec. 8-1. Reserved.

Editor's note—Former § 8-1, which declared that state law concerning licensing and regulation of motor vehicle storage facilities was inapplicable within the city limits, was repealed by § 1 of Ord. No. 86-1252, enacted July 16, 1986. The repealed provisions derived from Ord. No. 85-2098, § 1, enacted Dec. 3, 1985.

Secs. 8-2—8-15. Reserved.

ARTICLE II. AUTOMOTIVE DEALERS

DIVISION 1. GENERALLY

Sec. 8-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automotive jobber and supply firm. Any person who buys in the open market or who holds a

contract with a manufacturer of motor parts, motor vehicle units, accessories or supplies, for the purpose of engaging in, conducting or carrying on, primarily or incidentally, wholly or part time, the public business of buying, selling, offering for sale, consigning to be sold, servicing, trading or otherwise publicly dealing in new parts, units or supplies for motor vehicle maintenance or accessories for motor vehicles and who engages in, conducts or carries on such public business. Such term shall not apply to the exchange of automotive parts where no factory consecutive serial number is used and the part is shown as an exchange item in a standard parts catalogue.

Automotive parts rebuilder. Any person who engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public or operating as a public dealer in rebuilt parts and accessories, to include the following: Motors for motor vehicles, transmissions,

***Cross references**—Antique dealers, common markets, junk dealers, scrap metal processors, pawnbrokers and related businesses, Ch. 7; tire storage and tire carriers, § 21-181 et seq.

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differentials, generators, starters, carburetors, fuel pumps, shock absorbers, voltage regulators and distributors.

Automotive rebuilders. Any person who, primarily or incidentally, wholly or part time, engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public in or operating as a public dealer in used or secondhand motor vehicles or trailers by the method or plan of rebuilding of wrecked motor vehicles or trailers or of dismantling, wrecking, disassembling and selling the dismantled wrecks or the disassembled parts or accessories thereof to the public.

Automotive repair facility. Any person who engages in, conducts or carries on the public business of repairing motor vehicles or motor vehicle trailers, or both.

Automotive storage lot operator. Any person who engages in, conducts or carries on the public business of storing motor vehicles, including wrecked, damaged, and repossessed motor vehicles; provided however that this term shall not include those who store new motor vehicles pending the retail sales thereof nor those who own or operate lots or garages for the hourly or daily parking of motor vehicles. The term also shall not include any facility that is required to be licensed pursuant to the Vehicle Storage Facility Act (article 6687-9a, Texas Revised Civil Statutes) unless the facility in addition to keeping vehicles parked or stored without the owners' consent, as authorized by a license granted thereunder, keeps vehicles parked or stored with the owners' consent.

Body shop facility with storage privileges. Any person who operates an automotive repair facility that is primarily a body shop and has qualified under division 4 of this article to provide storage of customer vehicles for not more than 30 days in exchange for a fee pending the repair or other disposition of the vehicles.

Dealer in motor vehicles. Any person who, publicly engages in, conducts, or carries on the business of buying, selling, offering for sale to the

public, consigning to be sold to the public, trading or otherwise dealing in motor vehicles or motor vehicle trailers, or both, with and to the public.

Demonstrator. Any motor vehicle which has been used by any new motor vehicle dealer in effectuating the sales and which has been driven more than 150 miles.

Itinerant dealer. Any person who engages in the temporary or transient public business in the city of selling or offering for sale new or used motor vehicles, trailers, motor vehicle parts, supplies for motor vehicle maintenance, accessories for motor vehicles, or any or all of the same, or publicly exhibiting any or all of the same for public sale, and who, for the purpose of carrying on such public business or conducting such public exhibits, either hires, rents, leases, or occupies any room or space in any building, structure or enclosure in the city, in, through or from which such articles are or may be sold, offered for sale, or exhibited for sale. The word "temporary" used above means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least three months, or upon which such public business is to be operated or conducted. The word "established" as used herein means and shall be construed to mean any such business transacted or conducted in the city for which definite arrangements have been made for the hire, rental or lease of premises for at least three months. The word "transient" as used above means and shall be construed to mean such business as may be operated or conducted by a person who does not have a fixed place of business

(other than a temporary place as herein defined) in the city or who has his principal place of business in a place other than the city, and moves stocks of goods or articles into the city for public sale with the purpose or intention of removing the unsold portion thereof away from the city and ceasing to engage in business in the city before the expiration of three (3) months from the commencement of such business. It is specifically provided that the term "itinerant dealer" shall also include any person engaged in the businesses hereinabove mentioned, who associates himself temporarily with any local licensee hereunder, by conducting such temporary or transient business in connection with or as a part of the business of any local licensee. No person will be granted a license as an itinerant dealer unless he sets up and maintains a regular place of business at a fixed address in the city open to the inspection of the police and the public.

Retail supply dealer. Any person who publicly engages in, conducts or carries on the public business of buying, selling, offering for sale, trading or otherwise dealing in new parts, motor vehicle units, supplies for motor vehicle maintenance or new accessories for motor vehicles to consumers; but does not rebuild, dismantle, wreck or disassemble motor vehicles or trailers as part of such business.

Salesman. Any person who sells, offers for sale, leases or offers for lease any new or used motor vehicle, new or used motor vehicle trailer, used motor vehicle parts or used accessories for motor vehicles.

Storage lot operator. Any person, other than the licensed owner(s) of record, working at a vehicle storage facility licensed under article 3 of this chapter.

Used parts and used accessories dealer. Any person who, primarily or incidentally, wholly or part time, engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public in or operating as a public dealer in used or secondhand motor vehicle parts or accessories for motor vehicles, either or both;

but does not rebuild, dismantle, wreck or disassemble motor vehicles or trailers as part of such business.

Used parts and used accessories seller. Any person whose name is reported to the police department on more than three occasions as required by section 8-25(b) of this Code over a twelve-month period.

Wholesale automotive jobber and supply firm. Any person who holds a contract with a manufacturer of motor parts, motor vehicle units, accessories or supplies for the purpose of and is primarily or incidentally, wholly or part time, engaged in, conducting or carrying on the public business of buying, selling or offering for sale or otherwise publicly dealing in new or used parts, motor vehicle units, supplies for motor vehicle maintenance or accessories for motor vehicles at wholesale or quantity prices or at a price or prices lower than the established published retail price or prices, and makes sales to garage service stations or dealers for expected resale to the consumer. The term shall not apply to the exchange of automotive parts where no factory consecutive serial number is used and the part is shown as an exchange item in a standard parts catalogue. (Code 1968, § 8-11; Ord. No. 67-2161, § 1, 11-8-67; Ord. No. 71-1242, § 1, 7-13-71; Ord. No. 86-1252, § 2, 7-16-86; Ord. No. 87-1195, §§ 1, 2, 7-8-87; Ord. No. 93-1574, §§ 1-3, 12-8-93; Ord. No. 99-1354, § 1, 12-21-99)

Sec. 8-17. Automotive board.

(a) There is hereby created an automotive board consisting of 11 members appointed by the mayor and confirmed by the city council. The mayor shall designate the member to be chairman. Each of the eleven positions shall be numbered and filled as follows:

- (1) Position number one shall be filled by a new car dealer.
- (2) Position number two shall be filled by a used car dealer.
- (3) Position number three shall be filled by a wholesale parts and accessories dealer.

- (4) Position number four shall be filled by a new and used automobile retail parts dealer.
- (5) Position number five shall be filled by a service station or gasoline station operator.
- (6) Position number six shall be filled by a person who owns and operates a vehicle storage lot.
- (7) Position number seven shall be filled by a person who is not related within the first or second degree by consanguinity or affinity to any person who holds any interest in or is employed by any automotive business of a type that is subject to regulation under this chapter and is situated in the county.
- (8) Position number eight shall be filled by a person who owns and operates an automotive repair facility.
- (9) Position number nine shall be filled by a person who owns and operates an automobile wrecking and salvage yard.
- (10) Position number ten shall be filled by a member of the legal department of the city designated by the city attorney, who shall be an ex officio member only.
- (11) Position number 11 shall be the chief of police or his duly authorized representative assigned to the automobile dealers detail, who shall serve as secretary of the automotive board and shall be an ex officio member only.

(b) Appointments to positions created hereunder shall be made on or before January second of each year and shall take effect on that date. Each member of the board shall serve for a term of one year and until his successor has been appointed and qualified. Any appointed member of the board shall be subject to discharge and removal from his position on the board at any time by the mayor.

(c) Each member of the automotive board shall receive \$25.00 per diem for his services while attending meetings of the automotive board, and each member of the board who is employed by the city shall receive the same compensation as other

members of the board for attending those meetings not held during, or which continue beyond, his regular working hours. To the extent permitted by law, per diem payments to the board members shall be made out of the auto dealers' fund.

(d) Five members of the automotive board (excluding ex officio members) present at any meeting shall constitute a quorum for the transaction of all business of the board, and a majority vote of those members of the board present at any meeting shall prevail. The board shall hold not less than one nor more than three regular meetings each calendar month, provided that additional meetings may be conducted if required in order to meet deadlines imposed by law or by any contract to which the city is a party.

(Code 1968, § 8-12; Ord. No. 67-2161, § 3, 11-8-67; Ord. No. 94-922, §§ 1, 2, 9-7-94; Ord. No. 99-1379, § 1, 12-21-99)

Cross reference—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

Sec. 8-18. Posting of list of salesmen.

Each dealer or other person licensed under division 2 of this article who employs salesmen to assist him in the sale of motor vehicles or motor vehicle trailers or motor vehicle parts or accessories shall keep posted in the showroom of his business or in some other conspicuous place upon the business premises a list of the names of salesmen and the numbers of their licenses issued under this article, which list shall be open to the inspection of the chief of police or his duly authorized representative.

(Code 1968, § 8-13)

Sec. 8-19. Reports of salesmen's names and license numbers to police chief.

Each dealer or other person licensed under division 2 of this article shall report the names of all salesmen employed by him and their license numbers to the chief of police by the tenth day of each month.

(Code 1968, § 8-14)

Sec. 8-20. Information stickers on vehicles.

New or used motor vehicles which are or have been driven or towed from a point outside of the city shall be marked by affixing to the windshield thereof, in plain view, a sticker, of not less than three inches in diameter, showing the point outside of the city from which the motor vehicle was driven or towed, together with the approximate distance which such motor vehicle has been driven or towed, and the point at which purchased. The word "demonstrator" shall appear on such sticker as to all of such motor vehicles which have been used as demonstrators.

(Code 1968, § 8-15)

Sec. 8-21. Sale of unregistered vehicles.

(a) It shall be unlawful for any new or used motor vehicle which has not been registered by obtaining a motor vehicle license in the state, for use upon the highways of this state for the last registration date prior to sale or offer for sale, to be sold or offered for sale in the city unless the person so selling or offering the same for sale shall, prior thereto, file with the chief of police or his authorized representative, the following instruments:

- (1) A true copy of the certificate of title to the person who last operated the new or used motor vehicle.
- (2) A true copy of the license papers last issued on or for operation of such vehicle.

(b) The chief of police or his authorized representative shall inspect such instruments so filed with him and shall inspect such new or used motor vehicle. If satisfied that the instruments are regular and in order and that such new or used motor vehicle has not been stolen or fraudulently obtained from any prior owner, the chief of police or his authorized representative shall issue a permit granting the right of sale hereunder to the person filing such instruments. Upon refusal to so grant the permit, the applicant shall have the right to perfect an appeal to city council within five days from the denial or refusal by the chief of police.

(Code 1968, § 8-16)

Sec. 8-22. Purchase or sale of vehicles, parts, etc., when identification marks are removed, changed, etc.

It shall be unlawful for any person to purchase, sell or exchange in the city any motor vehicle, motor vehicle trailer, motor vehicle accessories and tires or motor vehicle parts from or on which any of the original manufacturer's identification numbers, or other original marks of identification, shall have been removed, obliterated, defaced, or changed, unless there shall be filed with the chief of police or his duly authorized representative, prior to and within five days of the date of such sale, purchase or exchange, a full description of the property involved and the reason for or explanation of the removal, obliteration, defacement or changing of identification numbers or marks, such description to be in writing and duly sworn to before a notary public.

(Code 1968, § 8-18)

Sec. 8-23. Secondhand parts, accessories, etc., to be retained forty-eight hours.

It shall be unlawful for any dealer or other person licensed under this article to offer for sale, trade, transfer or exchange or to sell, trade, transfer or exchange any used or secondhand motor vehicle part, parts, accessories, supplies, attachment, tires or equipment acquired by him until 48 hours after the time and date he in fact acquired the secondhand or used motor vehicle part, parts, accessories, attachments, equipment or supplies.

(Code 1968, § 8-19)

Sec. 8-24. Statement to be furnished purchaser of vehicle or trailer.

Prior to or at the time of the delivery of a motor vehicle or motor vehicle trailer, the dealer shall deliver to the purchaser a written statement describing clearly the motor vehicle or motor vehicle trailer sold to the purchaser, the cash sale price thereof, the cash paid down by the purchaser, the amount credited the purchaser for any trade-in, and a description of the motor vehicle or motor vehicle trailer traded, the net balance due

from the purchaser, the terms of the payment of such net balance and a summary of any insurance protection to be effected.

(Code 1968, § 8-21)

Sec. 8-25. Reports to police chief.

(a) Every licensee under this article who shall transport or otherwise bring into the city any out-of-state motor vehicle, new or used, or motor vehicle trailer, new or used, shall file with the chief of police a report in writing in the form prescribed by the chief of police, and an instrument in writing in the form provided for by the state highway department, and a copy of the bill of sale or certificate of title on all such vehicles or trailers within 48 hours after any such motor vehicle or motor vehicle trailer has been brought into the city.

(b) Every dealer or other person licensed under this article and his servants, agents and employees, shall execute and deliver, or cause to be executed and delivered, a report in writing to the chief of police or his duly authorized representative of every transaction in which the dealer or licensee shall have acquired possession of any secondhand or used automobile part, accessory, article, supplies, equipment or attachment, except tires, and deliver or cause to be delivered the report to the chief of police or his authorized representative at the headquarters of the police department not later than 11:00 a.m. on the day following the date upon which the dealer or licensee acquired possession of the thing or article, except that in the event the dealer or licensee shall so acquire possession of the thing or article on a Friday or Saturday, the dealer or licensee shall then deliver or cause the report to be delivered as aforesaid not later than 11:00 a.m. on the following Monday. Such written report shall include the following:

- (1) Name under which the dealer's or licensee's business is operated.
- (2) Name of the owner and operator of the business.
- (3) Location of the business.
- (4) Description of the article acquired by the dealer or licensee.

- (5) How acquired, whether by purchase, exchange, trade or loan, or in some other stated manner.
- (6) Name of the seller, depositor or person delivering the article to the dealer or licensee.
- (7) Whether delivery was made to the licensee, dealer or to his servant, agent or employee.
- (8) In the event delivery was made to a servant, agent or employee, the name and address of such servant, employee or agent.
- (9) The address, nationality, sex, color and approximate height, age and weight of the person from whom the article was acquired.
- (10) How delivery was made to the dealer or licensee, and in cases where a motor vehicle was used in the delivery, then the make, the license number exhibited on the vehicle, and the name of the state issuing the license number plate must be given.
- (11) The date and time of day the licensee or dealer acquired the article.
- (12) Signature of the licensee or dealer and the signature of his agent, servant or employee in cases wherein the article was acquired by such agent, servant or employee.
- (13) Signature of the person delivering possession of such article to the licensee or dealer.

The chief of police or his duly authorized representative shall prescribe the form of the aforesaid written report, and, in the event he should fail so to do, then a written report complying with the above requirements shall be sufficient.

(Code 1968, § 8-22)

Sec. 8-26. Other required records.

(a) Every person who, as dealer, shall make any sale, purchase, transfer or exchange of either a new or used motor vehicle, or new or used motor vehicle trailer, in the city shall keep a permanent, written record of any and all transfers and assign-

ments, if any, made by such person, or chattel mortgages, liens or notes covered by or secured by lien upon such motor vehicles or motor vehicle trailers, such record to show the name and address of each transferee, description of the mortgage, lien or note transferred and of the property affected thereby, including the motor number, model and license number of the motor vehicle or trailer therein involved. It shall be required that the person selling the car has a valid government issued ID, and that all information is recorded off of such ID.

(b) Every licensee under this article who shall repossess any motor vehicle or trailer or foreclose any lien or mortgage upon any motor vehicle shall keep a permanent, written record thereof, and of each such repossession or foreclosure, stating the name of the mortgagor, the amount of indebtedness, principal, interest and other items, if any, separately, the date and manner of foreclosure, whether by suit or private sale, the description of the property repossessed or foreclosed upon, including the motor number, model and license number of the motor vehicle or trailer therein involved, and the name and address of the purchaser thereof.

(c) Each person to whom a license is issued under this article to deal in secondhand or used motor vehicle parts or accessories shall keep at all times in the place of business of such licensee a written record of, secondhand and used motor vehicle accessories and parts except tires, purchased by the licensee or deposited for any purpose with such licensee, and of each motor vehicle or motor vehicle trailer purchased or received by such person for the purpose of rebuilding or dismantling the same. With respect to accessories and parts, the inventory shall include any item that constitutes a "major component part" as defined in section 501.0911 of the Texas Transportation Code, or a "component part," "front-end assembly," "tail section," "interior component part," and "special accessory part" as those terms are defined in article 6687-2 of the Texas Revised Civil Statutes. Additionally, the record shall include any other part or parts that are regularly the subject of trade by automotive parts thieves as determined by regulation promulgated by the automotive board; and supported by clear and

convincing evidence that there is reoccurring theft of the same type of part; any such automotive board regulation that adds additional parts shall expire on the second anniversary of its adoption unless extended by the automotive board, and again supported by clear and convincing evidence that there is reoccurring theft of the same type of part. Such record must show the motor number and license number of all motor vehicles or trailers transferred unto the licensee and an accurate description in the English language of the article purchased or deposited, the amount of money paid for same or loaned thereon and the time of purchase, transfer, or deposit thereof, showing the name, age, sex, signature, if any, residence, race, and approximate height and weight of the person from whom the licensee so acquired the property, and shall include a photograph showing the face of such transferor or seller together with the article so purchased and a thumbprint of such transferor or seller, provided that if an entire vehicle is acquired from the person who is the owner of the vehicle, then in lieu of the aforesaid photograph and thumbprint, the buyer may obtain and maintain a copy of the seller's vehicle title. It shall be required that the person selling the car has a valid government issued ID, and that all information is recorded off of such ID. Such written record must also include the vehicle identification number of the motor vehicle or the trailer. Such written record must also include a unique inventory number which corresponds to a transaction and has been attached to the motor vehicle or trailer and to the secondhand or used motor vehicle parts or accessories purchased by the licensee. Such written record shall be kept in book form or in an approved computerized format. The record must include the part description and a unique inventory number or motor vehicle identification number from which the part came.

It is an affirmative defense to prosecution under this subsection that both the transferor and the transferee are city and/or state licensed dealers in used parts and used accessories and that the transfer was documented in full compliance with State Law 6687-2 requesting the name of the business that the motor vehicle or motor vehicle part is purchased from and the Texas Certificate of Inventory number or federal tax-

payer identification number and the record must include the part description and a unique inventory number or motor vehicle identification number from which the part came. It is also an affirmative defense to prosecution under this section that the transferee is a city licensed dealer in used parts and used accessories and that the transferor is a person who conducts a similar business in another jurisdiction who caused the parts or accessories to be delivered to the transferee by commercial freight line or common carrier and the transferee documented the inventory number kept by the transferor for the part under Texas state law, if the transferor resides in Texas, or obtain the transferor's federal taxpayer identification number if the transferor resides outside the State of Texas. The provisions of this subsection (c) are in addition to any applicable state law, including but not limited to article 6687-2 of the Texas Revised Civil Statutes. Records forms promulgated hereunder shall be designed to include any state requirements that are also applicable in order to avoid any duplication of records. Any violation of this section that also constitutes a violation of state law shall be punishable as provided by the applicable state law.
(Code 1968, § 8-23; Ord. No. 82-2038, § 1, 12-22-82; Ord. No. 93-1574, § 4, 12-8-93; Ord. No. 00-947, § 1, 11-1-00)

Sec. 8-27. Retention and inspection of records.

All records provided for in this division shall be retained permanently and shall at all times be available and open for inspection by the chief of police or his authorized agent or representative or by any sheriff, constable or federal officer, or their duly authorized agents.
(Code 1968, § 8-24)

Sec. 8-28. Police records under article confidential.

All records filed with or kept by the police department under and by virtue of this article shall be kept confidential by the department and shall not be made available to the public.
(Code 1968, § 8-25)

Sec. 8-29. Enforcement of article and related laws.

The provisions of this article, as well as all other ordinances, procedural rules and regulations established by the automotive board, and statutes regulating the sale, barter, or exchange of new or used motor vehicles or motor vehicle trailers, or both, or of motor vehicle parts or accessories, shall be enforced by the police department and the automotive board.
(Code 1968, § 8-26)

Sec. 8-30. Automobile wrecking and salvage yards, automotive repair facilities.

(a) Definitions:

Automotive business dealing in used parts and used accessories as used herein shall mean any lot or tract of land used for the purpose of carrying on the trade of a "used parts and used accessories dealer," as defined in this chapter.

Automotive repair facility as used herein shall mean any lot or tract of land used for the purpose of carrying on the trade of an "automotive repair facility," as defined in this chapter.

Automotive wrecking and salvage yard as used herein shall mean any lot or tract of land used for the purpose of carrying on the business or trade of an "automotive rebuilder," as defined in this chapter, or any lot or tract of land whereon three or more discarded, abandoned, junked, wrecked, worn out or otherwise disabled automotive vehicles, including but not limited to autos, trucks, tractor trailers and buses, are kept or stored for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking such automotive vehicles to extract therefrom parts, components or accessories for sale or for use in an automotive repair or rebuilding business.

Solid as used herein in reference to a fence shall mean a fence constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.

Stored as used herein shall mean placed on or left on property.

(b) *Compliance.* All lots and tracts of land used for the purpose of carrying on the business or trade of an automotive wrecking and salvage yard or an automotive rebuilder or an automotive repair facility or an automotive business dealing in used parts and used accessories shall comply with the requirements of this section.

(c) *Removal of flammable liquids from vehicles.* All gasoline, gasohol, and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any automotive wrecking and salvage yard or yard operated by an automotive rebuilder or automotive repair facility in the city. All flammable liquids drained from any vehicle in such yard shall be stored in a safe manner and in strict accordance with the Fire Code of the city.

(d) *Fencing wall requirements.* Each area utilized for the keeping or storing of used automotive parts and/or used accessories by an automotive business dealing in used parts and used accessories or each area that is utilized for the keeping, storing, dismantling, cutting up, stripping or otherwise wrecking of any discarded, abandoned, junked, wrecked or otherwise disabled automotive vehicles upon any automotive wrecking and salvage yard or any automotive repair facility within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of such yard which extends generally parallel to, and within one hundred (100) feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight feet in height.
- (2) All sides of such yard not included in (d)(1) above shall be bounded by a solid fence or wall at least six feet in height.

(e) *Construction, maintenance of fence or wall.* Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side of an

automotive wrecking and salvage yard or automotive repair facility shall be bounded by a fence or wall constructed of only one of the above materials.

- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(f) *Use of wall, door or building as part of fence or wall.* Any part of a fence or wall required by subsection (d) hereof may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(g) *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to said automotive wrecking salvage yards, automotive repair facilities or automotive businesses dealing in used parts and used accessories shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times, except during normal business hours.

(h) *Use of premises outside enclosure.* It shall be unlawful for any owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom outside of or above the herein required fence or wall. It is a defense to prosecution under this subsection that the actor has established and is using one unfenced rectangular area not exceeding ten feet by 100 feet in maximum dimensions upon the premises to display dismantled component parts or accessories for sale, which parts and accessories are stored and arranged in compliance with all other applicable provisions of this section. The display area authorized in the foregoing affirmative defense

may also be utilized for the display for sale of whole motor vehicles, whether wrecked or damaged or not, provided that the operator of the premises also holds an automotive dealer's license for vehicle sales at the premises. Nothing in this subsection shall be construed to authorize the use of any public street or other public property for the sale or display of any merchandise in contravention of section 40-8 of this Code.

(i) *Arrangements of vehicles, parts and materials.*

- (1) All automotive vehicles, parts and other materials located in or on the premises of any automotive wrecking and salvage yard or automotive repair facility or automotive business dealing in used parts and used accessories in the city shall be arranged so as to allow reasonable access to, and inspection of, the premises by authorized fire, health, neighborhood protection and police officials of the city.
- (2) All automotive vehicles, parts and materials stored in any automotive wrecking and salvage yard, automotive repair facility, or automotive business dealing in used parts and used accessories must be stored at least six inches above the surface of the yard. A motor vehicle stored in its normal upright position shall be deemed to be stored in compliance with the foregoing requirement if all portions of the body floor plan of the vehicle are situated at least six inches above the lot surface, regardless of the height of wheels, tires, brake components, axles and suspension components that are attached in their normal manner to the vehicle and regardless of the height of wheels, tires or other devices used to elevate the vehicle.

It is an affirmative defense to prosecution under this item (2) that the vehicle's parts and materials were in process of disassembly and were situated within a "disassembly area" designated upon an automotive wrecking and salvage yard pursuant to item (3), below, at the time of the alleged offense.

- (3) Each duly licensed automotive wrecking and salvage yard may file with the automotive board a plat or legal survey of said yard accurately setting forth under oath the dimensions and size thereof, exclusive of all covered improvements and out buildings utilized as part thereof and in connection therewith. Such plat or legal survey shall also accurately depict all adjoining public thoroughfares. Each such yard filing such plat or legal survey may designate upon such plat or legal survey an accurately delineated open area not to exceed 20 percent of the unimproved area within the yard, or 21,780 square feet within the yard, whichever designation is smaller, as a "disassembly area." Upon approval of such plat or legal survey and designated "disassembly area" by the automotive board, the duly licensed yard operator may use such area for the active disassembly of wrecked vehicles in the usual course of yard business. A true copy of such approved plat or legal survey and designated "disassembly area" shall be displayed at all times upon the premises of business for review by any peace officer of the State of Texas or the neighborhood protection official of the city.

(j) *Control of vegetation.* It shall be unlawful for the owner or operator of an automotive wrecking and salvage yard, automotive repair facility or automotive business dealing in used parts and used accessories to allow grass or other vegetation to grow to a height of more than nine inches above the ground

(k) *Watershed.* No automotive wrecking and salvage yard, automotive repair facility or automotive business dealing in used parts and used accessories shall be located on top of a watershed.

(l) *Compliance with regulations and ordinances.* All automotive wrecking and salvage yards, and all automotive repair facilities and all automotive businesses dealing in used parts and used accessories must at all times be in full compliance with all city ordinances regarding health and safety, including specifically without limitation, all requirements of the Fire Code.

(m) *Improved surface.* All portions of lots or tracts of land used in the operation of an automotive wrecking and salvage yard, an automotive repair facility or an automotive business dealing in used parts and used accessories must have an all-weather surface of such composition and drainage as to enable the safe and effective movement of motor vehicles upon all portions of the lot, both under their own power and under tow, at all times regardless of prevailing weather conditions.

(n) *Violations and penalties.* Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of the owner or operator of an automotive wrecking and salvage yard, an automotive rebuilder, automotive repair facility or an automotive business dealing in used parts and used accessories under this Code. It shall be unlawful to fail to comply with any applicable provision of this section.

(o) *Vehicles stored less than 30 days for repairs.* For automotive repair facilities it is an affirmative defense to prosecution under subsections (c) and (d), above, that a wrecked or disabled vehicle stored thereupon is owned by a person other than the owner of the automotive repair facility and is being stored at the automotive repair facility for the purpose of its repair at the automotive repair facility and that the vehicle has been stored upon the automotive repair facility for 30 days or less at the time of the alleged offense.

(Code 1968, § 8-27; Ord. No. 82-2038, § 2, 12-22-82; Ord. No. 85-2216, §§ 4, 5, 12-26-85; Ord. No. 87-1195, § 4, 7-8-87; Ord. No. 88-1370, §§ 1, 2, 8-10-88; Ord. No. 90-635, §§ 18-C, 18-D, 5-23-90; Ord. No. 93-514, §§ 17, 18, 5-5-93; Ord. No. 93-1574, § 5, 12-8-93; Ord. No. 94-674, §§ 7, 8, 7-6-94; Ord. No. 98-613, § 20, 8-5-98; Ord. No. 02-399, § 20, 5-15-02; Ord. No. 02-676, § 3, 7-17-02)

Charter reference—Penalties for ordinance violations, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 8-31. Penalty.

Unless otherwise provided, any person who violates any provision of this article shall be

guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$200.00 nor more than \$500.00; provided, however, if the person is convicted of an offense under this article that is also a violation of the penal laws of the state, the person shall be subject to the penalties set out in the penal laws for the offense.

A used parts and accessories seller commits a separate offense for each sale of used parts and/or used accessories made without a valid salesman's license. The offense shall be punishable by a fine of not less than \$200.00 nor more than \$500.00 than for each transaction.

(Ord. No. 93-1574, § 6, 12-8-93)

Secs. 8-32—8-50. Reserved.

DIVISION 2. DEALER'S LICENSE

Sec. 8-51. Required.

It shall be unlawful for any person, either for himself or as agent or representative of another, to engage primarily or incidentally, wholly or part time, in any business defined in section 8-16 of this Code within the city without first obtaining a license so to do in accordance with this division. (Code 1968, § 8-32)

Sec. 8-52. Application generally.

(a) Every applicant for a license to engage in, conduct or carry on within the city limits any of the businesses described in section 8-16 of this Code shall make application therefor on an application form furnished by the chief of police and prescribed by the automotive board, which application shall be signed and sworn to as herein provided and shall include, among other things, the following information respecting the applicant:

- (1) Trade name of each business that the applicant has engaged in during the five-year period next preceding the filing of such application.
- (2) Address of the applicant's principal office or establishment in the city.

- (3) Number and location of branch establishments, if any, maintained and operated in the city.
- (4) Whether the applicant is the owner or lessee of the real property occupied and, if the lessee, the name of the landlord.

- (5) Description of the business.
 - (6) Whether the applicant has ever been convicted of a felony or of a crime involving moral turpitude, and if a partnership, the answer shall be as to all members of the partnership, and if a corporation, shall be as to all officers of the corporation.
 - (7) A statement of the method of distribution to be used.
 - (8) If a corporation, a copy of its charter or permit to do business certified to by the secretary of state.
 - (9) If a corporation, the names and addresses of the principal officer and of all local officers of the corporation and, if a partnership, the names of all the partners.
- (b) If the application is by a corporation, the same shall be signed and sworn to by a duly authorized officer thereof, if by a partnership, then by one of the partners therein, and if by an individual, then by such individual personally.
- (c) Such application, properly filled out and executed, shall be delivered by the applicant to the chief of police or his duly authorized representative.
- (d) Any person submitting an initial application pursuant to this section or an application for an amended license for a different premises as provided for in this division shall also submit a copy of a certificate of occupancy issued by the building official for the occupancy of each structure which is to be used for the applicant's business. No such license shall be issued unless the applicant has submitted a copy of such a certificate of occupancy for each structure, and each certificate shows that the structure to which it appertains may be occupied for the type of business for which the application is being made.

A copy of each certificate of occupancy submitted by an applicant or licensee pursuant to this subsection shall be deemed to be a part of the application for the license. Its submission shall also be deemed to be a representation of the applicant that the certificate is a true and correct copy of the instrument that was issued by the building official, and that is valid.

(Code 1968, § 8-33; Ord. No. 89-1738, § 1, 12-6-89; Ord. No. 90-1508, § 1, 12-19-90)

Sec. 8-53. Applicant must have established place of business.

No license shall be granted under this division to a person who does not have, or prove the bona fide intention to have forthwith upon the issuance of a license, a regular established place of business, at a definite and fixed address in the city used to offer for sale vehicles, parts or accessories by such person and which is open to reasonable inspection by the chief of police or his authorized representative.

(Code 1968, § 8-34; Ord. No. 67-2161, § 1, 11-8-67; Ord. No. 71-1242, § 1, 7-13-71)

Sec. 8-54. Separate license for each address.

Every person who desires to maintain and operate more than one place of business or branch office or substitute place of business must designate in his original application each such place of business, branch office or substitute place of business, giving each address and pay a separate license fee and secure a license pursuant to the provisions of this division for each address.

(Code 1968, § 8-35)

Sec. 8-55. Separate license for each person engaged in business at same place.

(a) A separate license issued hereunder shall be required for each person who may engage in the business of dealing in new motor vehicles or used motor vehicles, or both, at any fixed or established place of business.

(b) A separate license issued hereunder shall be required for each person who may engage in the business of dealing in new motor vehicle parts or accessories or used motor vehicle parts or accessories, or both, at any fixed or established place of business.

(Code 1968, § 8-36)

Sec. 8-56. Investigation.

When an application is made for a license under this division, the chief of police or his duly authorized representative shall make or cause to be made such inspections of the establishments of the applicant and such investigations as he may deem necessary and shall report the results thereof

to the automotive board. The chief of police shall also advise the automotive board as to whether the applicant or any other person required to be listed on the application appears to have been convicted of or served time in jail or prison for any applicable offense specified in section 1-10 of this Code.

(Code 1968, § 8-37)

Sec. 8-57. Approval or disapproval of application.

(a) The automotive board shall consider the application for a license under this division and the report of the chief of police or his duly authorized representative concerning the same, after which time it shall stamp its approval or disapproval on such application.

(b) If the automotive board refuses to approve an application for a license or revokes or suspends a license under this division, the applicant or licensee therefor shall have the right of appeal to the city council; provided, however, if the license is denied, suspended or revoked due to a conviction pursuant to section 1-10 of this Code, then such applicant or licensee shall have no right of appeal to the city council. Otherwise, an appeal is perfected by the filing of a written request therefor in the office of the city secretary within ten days after the action of the automotive board disapproving the application or revoking or suspending the license. The city council shall select a date for the hearing and written notice thereof will be given the applicant. The hearing before the council shall be de novo and the applicant or licensee shall have the burden of proving that he is entitled to the license for which he applied or that his license should not have been revoked or suspended. If such appeal is from the denial of a license and if such license is granted by the city council, the applicant therefor shall be entitled to the issuance thereof in the same manner as other licenses are issued hereunder.

(Code 1968, § 8-38; Ord. No. 71-1456, § 1, 8-18-71)

Sec. 8-58. Fees.

(a) The following schedule shall constitute the license fees payable for each of the respective licenses issued under this division, all of which

fees shall be payable to the chief of police:

	<i>Initial License Fee</i>	<i>Re- newal License Fee</i>
(1) Dealer in new motor vehicles	\$120.00	\$100.00
(2) Dealer in used motor vehicles	120.00	100.00
(3) Wholesale automotive jobber and supply dealer	80.00	60.00
(4) Retail supply dealer	60.00	40.00
(5) Automotive rebuilder and dismantler	220.00	200.00
(6) Automotive parts rebuilder	80.00	60.00
(7) Automotive storage lot operator	120.00	100.00
(8) Automotive repair facility	220.00	200.00
(9) Used parts and used accessories dealer	220.00	200.00
(10) Body shop facility with storage privileges	340.00	300.00

(b) Fees on all licenses issued during any calendar year shall be paid in advance to the chief of police on a pro rata basis. The month during which such license is issued shall be counted as a calendar month.

(c) Any combination license may be issued for any combination of the businesses governed by this article, upon payment of the appropriate fee as herein provided, after application for such license has been made and approval has been granted by the automotive board pursuant to the terms of this division. The following schedule of combination license fees shall apply and shall be payable to the chief of police in lieu of separate licenses for two or more classes of business conducted by the licensee:

	<i>Initial License Fee</i>	<i>Re- newal License Fee</i>
(1) A dealer in new vehicles, used vehicles, and parts and accessories, new or used, or both	\$180.00	\$140.00
(2) A dealer in used vehicles and parts and accessories, new or used, or both	180.00	140.00
(3) A person engaged in the business of wholesale automotive jobber and supply dealer and in the business of retail supply dealer	140.00	100.00

(d) A dealer who inadvertently obtains duplicate licenses for the same address under subsections (a) and (c) shall be entitled to a refund for such duplication; provided, the city shall retain \$5.00 for handling the refund.

(e) Upon disapproval by the automotive board of any license issued hereunder, the applicant (by requesting same in writing) shall be entitled to a refund of money paid the city; provided, the city shall retain \$5.00 for handling the refund.

(f) No license issued pursuant to the provisions of this division may be renewed more than 30 days after the date of its expiration. If a license had expired and not been renewed within 30 days, the applicant may apply for a new license as an initial applicant. The fee for such a new license shall be the fee set out for an original license. (Code 1968, § 8-39; Ord. No. 69-704, § 1, 4-23-69; Ord. No. 71-1242, § 2, 7-13-71; Ord. No. 73-2513, § 1, 12-26-73; Ord. No. 74-361, § 1, 2-26-74; Ord. No. 77-446, §§ 1, 2, 3-9-77; Ord. No. 81-1804, §§ 1-3, 9-15-81; Ord. No. 87-1195, § 3, 7-8-87; Ord. No. 93-1574, § 7, 12-8-93; Ord. No. 99-1354, § 2, 12-21-99)

Sec. 8-59. Issuance.

When an application for a license under this division is approved by the automotive board or the city council, the chief of police shall, upon payment to him by the applicant of the proper license fee as provided for in this division for the business described in such application, and compliance with all provisions of this division by the applicant, issue the proper license on a form to be prescribed by the automotive board.

(Code 1968, § 8-40)

Sec. 8-60. Term.

All licenses issued under this division shall remain in force and effect for the calendar year and shall expire at midnight on December thirty-first of the calendar year during which issued.

(Code 1968, § 8-41)

Sec. 8-61. Display.

A license issued under this division shall be displayed in a conspicuous place in the office of each place of business maintained by the licensee.

(Code 1968, § 8-42)

Sec. 8-62. Amendment upon change of business.

Any license issued under this division shall apply to the premises described therein, but a licensee may, upon application therefor and the payment of the sum of ten dollars (\$10.00) to the chief of police for each such application and the turning in of the old license for cancellation, be issued an amended license showing any change in location of the place of business of such licensee. Such amended license shall expire on the date of the expiration of the license which it replaces and shall so state. Said licensee shall report to the chief of police any change in location of his place of business within thirty (30) days from the date of any change.

(Code 1968, § 8-43; Ord. No. 81-1804, § 4, 9-15-81)

Sec. 8-63. Certified copies.

Any licensee under this division who desires a certified copy of his license or amended license, shall make a written application therefor addressed to the chief of police stating therein the number of certified copies desired by the applicant and over his signature, and upon payment made to the chief of police in the sum of one dollar (\$1.00) in money for each such certified copy applied for, the chief of police is hereby authorized and required to issue and deliver such copy or copies to the applicant and certify in his official capacity that each copy is a true and correct copy of the original or amended license issued to the applicant.

(Code 1968, § 8-44)

Sec. 8-64. Licensee restricted to business specifically licensed.

No person having a license as provided for in this division shall engage in any business regulated by this article except that for which such person has been specifically licensed.

(Code 1968, § 8-45)

Sec. 8-65. No vested rights.

No license issued under this division shall be construed as the grant of a vested right, but shall be subject to such other regulations or amend-

ments as the city council may from time to time promulgate in the regulation of the businesses coming within the scope of this article.
(Code 1968, § 8-46)

Sec. 8-66. Revocation or suspension.

(a) The automotive board may revoke or suspend a license after it has been granted under this division for any of the following reasons:

- (1) Habitual drunkenness or the use of narcotics by the licensee.
- (2) Conviction of an offense pursuant to section 1-10 of this Code.
- (3) Adjudication of insanity of the licensee.
- (4) Fraud or misrepresentation in obtaining the license.
- (5) Violation by the licensee, on more than one occasion, either willfully or maliciously or by reason of incompetence, of any of the provisions of this chapter or of any rule or regulation adopted and promulgated by the automotive board and approved by the city council, under authority vested in it by this chapter.
- (6) Upon satisfactory proof that the licensee has violated any of the laws of Texas affecting either the sale of automobiles or the operation of the business or service for which the license was issued.
- (7) Proof that the licensee has represented and sold as a new and unused motor vehicle any motor vehicle which has been operated for demonstration purposes or which is otherwise a used motor vehicle.
- (8) Proof that the licensee has sold or offered for sale as a new and unused motor vehicle any motor vehicle for which he cannot secure for the purchaser thereof such new car warranty as may be extended by the manufacturer of the car to the purchaser of one of its new cars, unless he shall explain to the purchaser and show on the bill of sale that the car is being sold without any warranty being extended by the manufacturer.

(9) Proof that the licensee resorts to or uses any false or misleading advertising in connection with his business as such motor vehicle dealer or motor vehicle salesman.

(10) Proof that the licensee gives false or fictitious names or addresses for the purpose of registering the sale of a motor vehicle, or makes application for the registration of a motor vehicle in the name of any person other than the true owner, or any other fraudulent practices to evade the meaning of this section.

(b) The automotive board, before taking any action under this section, shall give the licensee written notice of the violation or offense complained of and shall conduct a hearing inquiring into such violation or offense, at which time the licensee shall have an opportunity to present evidence on his behalf. If the board revokes or suspends a license because the licensee has been convicted of the commission of a felony or of a misdemeanor involving moral turpitude, the revocation or suspension shall be effective immediately.

(c) A licensee whose license has been revoked or suspended by the automotive board shall have the right to appeal such revocation or suspension to the city council in the manner and under the terms and conditions provided for in section 8-57 of this Code and the council shall follow the procedure set forth in that section.
(Code 1968, § 8-47; Ord. No. 71-1456, § 1, 8-18-71)

Secs. 8-67—8-80. Reserved.

DIVISION 3. SALESMAN'S LICENSE

Sec. 8-81. Required.

It shall be unlawful for any person to engage as a salesman, full or part time, in the business of selling new or used motor vehicles, new or used motor vehicle trailers, or used motor vehicle parts or accessories, or to engage as a storage lot operator, full or part time, in the city, unless such person shall first obtain a salesman's license. It shall be unlawful for any dealer or other person

licensed under division 2 of this article to allow any person to act as a salesman for his business who has not obtained a salesman's license as herein provided.

(Code 1968, § 8-53; Ord. No. 93-1574, § 8, 12-8-93)

Sec. 8-82. Application; issuance or denial.

It shall be the duty of each salesman required to be licensed under this division to apply for such license in the same manner as prescribed in division 2 of this article. Such application shall be on an application form provided by the chief of police and prescribed by the automotive board. Such application shall state the applicant's name, age, present address, former addresses and places of employment during the preceding two years, whether the applicant has been convicted of a felony or of a crime involving moral turpitude. A bust picture of applicant, not less than 1½ inches by two inches in size, shall be attached to said application. An application for the license required by the provisions of this division shall be acted upon by the automotive board in the same manner and respect as provided for in the issuance of licenses under division 2 of this article, and the board shall either approve or deny the application. Each application shall be referred to the chief of police who shall advise the board as to whether the applicant appears to have been convicted of or served time in jail or prison for any applicable offense specified in section 1-10 of this Code. If the application is approved, it shall be transmitted to the chief of police for the issuance of the license. A person aggrieved by the action of the automotive board in denying an application for the license required by the provisions of this division or revoking or suspending such a license may appeal to the city council in the manner and under the terms and conditions provided for in section 8-57 of this Code and the council shall follow the procedure set forth in such section.

(Code 1968, § 8-54; Ord. No. 75-107, § 1, 1-21-75)

Sec. 8-83. Fee.

Upon filing an application for a license under this division, the applicant shall pay to the chief of police or his representative a license fee of \$25.00, which fee shall not be refundable.

(Code 1968, § 8-55; Ord. No. 74-361, § 2, 2-6-74; Ord. No. 77-446, § 3, 3-9-77; Ord. No. 81-1804, § 5, 9-15-81)

Sec. 8-84. Certain applicants to be fingerprinted.

All salespersons, used parts and used accessories sellers and storage lot operators applying for a salesman's license shall submit themselves to be fingerprinted at the police department.

(Code 1968, § 8-56; Ord. No. 86-44, § 1, 1-21-86; Ord. No. 93-1574, § 9, 12-8-93)

Sec. 8-85. Contents.

A license issued under this division shall contain a license number, the licensee's social security number and his handwritten signature and the name of the licensee's employer.

(Code 1968, § 8-57)

Sec. 8-86. Exhibition.

A license issued under this division shall be exhibited, upon demand, to any peace officer showing proper identification.

(Code 1968, § 8-58)

Sec. 8-87. Expiration and renewal.

A license issued under this division shall be in force for the remainder of the calendar year during which issued. Such license may be renewed annually upon payment to the chief of police of \$15.00 per year for each annual renewal thereof; provided, however, that no license which shall have lapsed for as much as 90 days shall be renewed except upon re-examination upon the same terms and conditions as provided for herein in the case of original licenses.

(Code 1968, § 8-59; Ord. No. 70-37, § 1, 1-13-70; Ord. No. 74-361, § 3, 2-6-74; Ord. No. 77-447, § 4, 3-9-77; Ord. No. 81-1804, § 6, 9-15-81)

Sec. 8-88. Transfer or change of employment after issuance; fee.

A license issued under this division shall not be transferable. It shall be lawful, however, for a salesman to use the same license after changing employment from one employer to another, provided the fact of such change in employment is

endorsed on the license by the chief of police and a fee of \$5.00 is paid to the chief of police for making the notation of such change.

(Code 1968, § 8-60; Ord. No. 77-447, § 5, 3-9-77; Ord. No. 81-1804, § 7, 9-15-81)

Sec. 8-89. Revocation or suspension.

Any license issued under this division may be revoked or suspended by the automotive board for any of the reasons stated in section 8-66 of this Code, and such suspension or revocation shall be subject to all of the provisions and conditions of section 8-66.

(Code 1968, § 8-61)

Sec. 8-90 Reserved.

DIVISION 4. BODY SHOP FACILITY WITH STORAGE PRIVILEGES*

Sec. 8-91. Purpose; relationship to other provisions.

(a) Pursuant to the provisions of this division, an automotive repair facility that primarily functions as a body shop may qualify to obtain a license as a body shop facility with storage privileges. A holder of that license shall, subject to compliance with this division, be entitled to function as both an automotive repair facility and an automotive storage lot operator under this article so that a storage fee may be imposed for vehicles that are stored with the owner's consent pending their repair at the body shop or other disposition. The holder of a body shop facility with storage privileges license shall not be required to also hold an automotive repair facility license or automotive storage lot operator's license for operations at the covered premises in compliance with this division.

(b) A body shop facility with storage privileges that is licensed under this division is not required to comply with the land use requirements estab-

lished in section 28-34 of this Code. However, it is the intent of city council in adopting this article that the article cannot be used to circumvent the 300-foot land use restrictions that apply therein to any storage lot, whether in existence at the time of adoption of this article or created thereafter.

(c) Nothing contained in this division shall be construed to preclude an automotive repair facility, whether primarily operating as a body shop or not, that is situated in a location that complies with section 28-34 of this Code from obtaining a license under the state Vehicle Storage Facility Act or a private storage lot authorization under article III of this chapter, as applicable, and conducting vehicle storage operations thereunder.

(d) Nothing contained in this division shall be construed to preclude any automotive repair facility, whether primarily operating as a body shop or not, from storing vehicles without imposing a fee for the service as authorized in section 8-30 of this Code.

(e) All provisions of this article that apply to automotive repair facilities shall also apply to a body shop facility with storage privileges license holder, except that the license holder may not store vehicles as provided in section 8-30(o) of this Code.

(Ord. No. 99-1354, § 3, 12-21-99)

Sec. 8-92. Licensing requirements.

In order to obtain a body shop facility with storage privileges license, the applicant must demonstrate:

- (1) That on the premises where the licensed facility will be situated, the applicant operates a body shop that is operationally equipped with one or more frame machines, an estimating system, two or more fully equipped body repair bays and one or more city permitted vehicle paint booths, which equipment shall be situated within enclosed structures.
- (2) That the licensed facility may not derive more than 25 percent of all income from fees charged specifically for storage of vehicles on the premises.

***Editor's note**—Section 5 of Ord. No. 99-1354, adopted December 21, 1999, states that any person who elects to obtain a Body Shop Facility with Storage Privileges license within 180 days following the effective date of this division shall be given pro rata credit for any fee previously paid for an Automotive Repair Facility License.

- (3) That, in addition to the vehicle storage area required under item (5), below, the operator has, upon the premises, not less than five parking spaces for every 1,000 square feet of gross floor area, as required for an auto repair establishment under chapter 26 of this Code.
- (4) That the premises abuts a major thoroughfare and will take access to the premises for all purposes relating to the operation of the body shop and the storage of vehicles from the major thoroughfare.
- (5) That the premises has an enclosed all-weather-improved surface parking area not larger than seven and one-half marked parking spaces per 1,000 square feet of gross floor area, measured and construed in the same manner provided in chapter 26 of this Code, that will be utilized as its vehicle storage area. The area shall be enclosed in the same manner described in section 8-30(e) of this Code, provided that if the premises abuts any deed restricted property and the deed restrictions require a particular type of fence, then the fence shall also conform to the style required in the abutting property's deed restrictions. The vehicle storage area shall be located on the same tract or parcel of land where the body shop is situated or a contiguous tract or parcel of land. For this purpose, "contiguous" shall include an abutting tract or parcel and shall also include a tract or parcel that is situated directly across the major thoroughfare from which the body shop takes its access. For these purposes, the term directly across means that 50 percent or more of the tract frontages on the opposite sides of the major thoroughfare are parallel.
- (6) That signs are conspicuously posted at each public entrance to the premises setting forth the hours of operation and the amount of any daily vehicle storage fee imposed.

(Ord. No. 99-1354, § 3, 12-21-99)

Sec. 8-93. Operating requirements.

Holders of body shop facility with storage privileges licenses shall be subject to the following operating rules:

- (1) No vehicle may be stored without the owner's consent, which shall be evidenced either by an auto wrecker tow slip signed by the owner or operator of the vehicle designating the licensed premises as the intended tow destination or by a vehicle work order or repair contract executed by the owner of the vehicle that provides for repair of the vehicle at the premises. The tow slip or contract shall evidence the date of receipt of the vehicle at the premises.
- (2) No vehicle shall be stored unless it has in display Texas registration and vehicle inspection stickers that are current or not more than two months expired, or equally current operating documentation if the vehicle is registered in another jurisdiction.
- (3) No vehicle shall be stored except in the storage enclosure described in section 8-92(5) of this Code, nor shall the number of vehicles stored exceed the number of authorized storage spaces.
- (4) Within 30 days from the date of its receipt, each vehicle stored shall either be removed from the premises or be brought into an enclosed body shop structure for the commencement of repairs and may not be returned to outside storage until all body work is completed. In the event that the owner does not remove the vehicle as required under this item, the body shop facility with storage privileges license holder shall cause the vehicle to be timely removed to a city-licensed private storage lot operating under article III of this chapter or a state-licensed vehicle storage facility. A daily log of vehicles received and removed shall be maintained to evidence compliance with this item.
- (5) The operator of the body shop facility with storage privileges may, but shall not be

obligated to, impose a fee of not more than \$11.00 per calendar day, or any portion of a calendar day, for storage services. No additional fee may be imposed for preservation, notices or other services related to the storage services.

- (6) The owner of each vehicle stored hereunder shall be notified of the applicable terms and conditions relating to storage periods and fees, including the amount of the storage fees that may be imposed, the requirement that the vehicle may not be stored on the premises for more than 30 days, the destination to which it will be taken if not timely removed, the amount of any additional towing fee that may be imposed for the removal and that the vehicle will be subject to additional fees and sale pursuant to state law if not timely redeemed from the place to which it will be removed. The notice shall be in a form approved by the police chief or his designee, shall set forth the above information and shall be mailed to the registered owner of record within five days from the date of the receipt of the vehicle, provided that the notice shall not be required to be mailed if the owner has, within five days following receipt of the vehicle on the premises, executed a work order or repair contract that includes the required notice information.

(Ord. No. 99-1354, § 3, 12-21-99)

Sec. 8-94. Compliance required; inspection.

(a) Records of compliance with this article, including tow slips, work orders, repair contracts, the daily compliance log and storage receipts shall be maintained on the premises of the body shop facility with storage privileges and shall be made available for inspection and copying by any police officer immediately upon request during regular business hours. The records shall be retained on the premises for two years from the date of their creation.

(b) Compliance with all provisions of this article is a condition of imposition of a storage fee by a body shop facility with storage privileges.

(c) It shall be the duty of the owner and each agent and employee of a body shop facility with storage privileges to comply with all requirements of this article and any failure to comply shall be an offense punishable as provided in section 1-6 of this Code.

(d) The holder of a body shop facility with storage privileges license shall only have storage privileges as extended hereunder.
(Ord. No. 99-1354, § 3, 12-21-99)

Secs. 8-95—8-100. Reserved.

- (3) That, in addition to the vehicle storage area required under item (5), below, the operator has, upon the premises, not less than five parking spaces for every 1,000 square feet of gross floor area, as required for an auto repair establishment under chapter 26 of this Code.
- (4) That the premises abuts a major thoroughfare and will take access to the premises for all purposes relating to the operation of the body shop and the storage of vehicles from the major thoroughfare.
- (5) That the premises has an enclosed all-weather-improved surface parking area not larger than seven and one-half marked parking spaces per 1,000 square feet of gross floor area, measured and construed in the same manner provided in chapter 26 of this Code, that will be utilized as its vehicle storage area. The area shall be enclosed in the same manner described in section 8-30(e) of this Code, provided that if the premises abuts any deed restricted property and the deed restrictions require a particular type of fence, then the fence shall also conform to the style required in the abutting property's deed restrictions. The vehicle storage area shall be located on the same tract or parcel of land where the body shop is situated or a contiguous tract or parcel of land. For this purpose, "contiguous" shall include an abutting tract or parcel and shall also include a tract or parcel that is situated directly across the major thoroughfare from which the body shop takes its access. For these purposes, the term directly across means that 50 percent or more of the tract frontages on the opposite sides of the major thoroughfare are parallel.
- (6) That signs are conspicuously posted at each public entrance to the premises setting forth the hours of operation and the amount of any daily vehicle storage fee imposed.

(Ord. No. 99-1354, § 3, 12-21-99)

Sec. 8-93. Operating requirements.

Holders of body shop facility with storage privileges licenses shall be subject to the following operating rules:

- (1) No vehicle may be stored without the owner's consent, which shall be evidenced either by an auto wrecker tow slip signed by the owner or operator of the vehicle designating the licensed premises as the intended tow destination or by a vehicle work order or repair contract executed by the owner of the vehicle that provides for repair of the vehicle at the premises. The tow slip or contract shall evidence the date of receipt of the vehicle at the premises.
- (2) No vehicle shall be stored unless it has in display Texas registration and vehicle inspection stickers that are current or not more than two months expired, or equally current operating documentation if the vehicle is registered in another jurisdiction.
- (3) No vehicle shall be stored except in the storage enclosure described in section 8-92(5) of this Code, nor shall the number of vehicles stored exceed the number of authorized storage spaces.
- (4) Within 30 days from the date of its receipt, each vehicle stored shall either be removed from the premises or be brought into an enclosed body shop structure for the commencement of repairs and may not be returned to outside storage until all body work is completed. In the event that the owner does not remove the vehicle as required under this item, the body shop facility with storage privileges license holder shall cause the vehicle to be timely removed to a city-licensed private storage lot operating under article III of this chapter or a state-licensed vehicle storage facility. A daily log of vehicles received and removed shall be maintained to evidence compliance with this item.

- (5) The operator of the body shop facility with storage privileges may, but shall not be obligated to, impose a fee of not more than \$11.00 per calendar day, or any portion of a calendar day, for storage services. No additional fee may be imposed for preservation, notices or other services related to the storage services.
- (6) The owner of each vehicle stored hereunder shall be notified of the applicable terms and conditions relating to storage periods and fees, including the amount of the storage fees that may be imposed, the requirement that the vehicle may not be stored on the premises for more than 30 days, the destination to which it will be taken if not timely removed, the amount of any additional towing fee that may be imposed for the removal and that the vehicle will be subject to additional fees and sale pursuant to state law if not timely redeemed from the place to which it will be removed. The notice shall be in a form approved by the police chief or his designee, shall set forth the above information and shall be mailed to the registered owner of record within five days from the date of the receipt of the vehicle, provided that the notice shall not be required to be mailed if the owner has, within five days following receipt of the vehicle on the premises, executed a work order or repair contract that includes the required notice information.

(Ord. No. 99-1354, § 3, 12-21-99)

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(a) Records of compliance with this article, including tow slips, work orders, repair contracts, the daily compliance log and storage receipts shall be maintained on the premises of the body shop facility with storage privileges and shall be made available for inspection and copying by any police officer immediately upon request during regular business hours. The records shall be retained on the premises for two years from the date of their creation.

(b) Compliance with all provisions of this article is a condition of imposition of a storage fee by a body shop facility with storage privileges.

(c) It shall be the duty of the owner and each agent and employee of a body shop facility with storage privileges to comply with all requirements of this article and any failure to comply shall be an offense punishable as provided in section 1-6 of this Code.

(d) The holder of a body shop facility with storage privileges license shall only have storage privileges as extended hereunder.

(Ord. No. 99-1354, § 3, 12-21-99)

Secs. 8-95—8-100. Reserved.

ARTICLE III. AUTO WRECKERS AND STORAGE YARDS

DIVISION 1. GENERALLY

Sec. 8-101. Definitions.

For the purposes of this article:

Accident shall mean a situation where one or more motor vehicles have collided with any other motor vehicle or object.

Authorization holder shall mean a person who is operating a private storage lot under an authorization issued under division 3 of this article, rather than under a Vehicle Storage Facility Act license.

Auto wrecker shall mean any automobile, truck or other vehicle used for the purpose of towing, carrying, pushing or otherwise transporting any motor vehicle.

Consent tow shall mean the towing of a motor vehicle upon the consent of the vehicle owner.

Custodial arrest shall mean a situation where a peace officer employed by the city takes the operator of a motor vehicle into custody and determines that it is necessary to cause the person's vehicle to be removed from the scene for storage or for use in a criminal investigation.

Heavy-duty wrecker shall mean an auto wrecker having chassis rated at five tons or greater by the vehicle manufacturer and a winch capable of lifting a minimum of 30,000 pounds as rated by